

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THE 16TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE G.C.BHARUKA

WRIT PETITION NO.17744/98

BETWEEN:

M.H.Mubarak,  
s/o.late Hussain Khan,  
r/o.B.No.5108, Mercara Depot,  
KSRTC Mangalore Division.

..PETITIONER

(By Sri S.B.Mukkannappa, Adv.)

AND:

1. The Managing Director,  
KSRTC, Central Offices,  
Shanthinagar,  
K.H.Road, Bangalore-27.
2. The Divisional Controller,  
KSRTC, Mangalore Division,  
Mangalore.

..RESPONDENTS

This writ petition is filed under Article 226 and 227 of the Constitution praying this Court to quash Annexure-E dt.10.3.98 passed by R-2.

This petition coming on for preliminary hearing this day, the Court made the following:

### ORDER

The petitioner is working as a driver in the respondent-KSRTC. He was subjected to disciplinary proceedings in which enquiring officer submitted his report after recording ~~some~~ evidence, to the Disciplinary Authority. But Disciplinary Authority was not satisfied about the manner in which the enquiry was conducted. He was directed ~~for~~ <sup>to</sup> hold <sup>there</sup> fresh enquiry under impugned order dated 10.3.98 in the manner directed in <sup>the</sup> said order.

The Disciplinary Authority under <sup>his</sup> ~~its~~ impugned order has asserted that enquiry officer has not given sufficient opportunity to the management to lead appropriate evidence. For the said purpose the Authority has appointed the Accounts Officer, Mangalore Division, as the enquiry officer.

2. Aggrieved by the impugned order the petitioner has assailed the same by referring to Regulation 23(24) of the Karnataka State Road Transport Corporation Servants (Conduct & Discipline) Regulations, 1971, which reads as under:

**"Regulation 23(24):** The disciplinary authority if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of this regulation as far as may be."

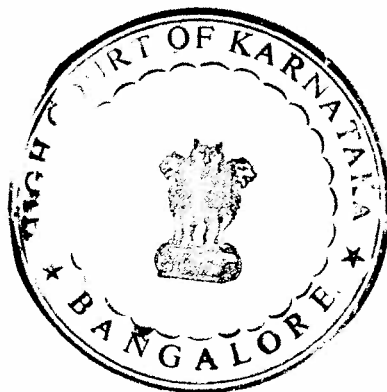
3. With reference to the above provision it has been submitted on behalf of the petitioner that in law Disciplinary Authority could have directed only for further enquiry and not a fresh enquiry.

Ln

4. In my opinion since the Disciplinary Authority has <sup>found</sup> ~~contended~~ that the management was not given sufficient opportunity to present its case the enquiry officer has now to give appropriate opportunity to the management for leading evidence and also for cross examining the petitioner and his witnesses, if any. Counsel for the petitioner states that keeping in view the aforesaid provisions he may not be required to lead any further evidence. In my opinion there cannot be any serious objection to the prayer so made. Therefore, the enquiry officer shall take on record the evidence already led on behalf of the petitioner but has to give opportunity to the management to lead evidence in support of the charges and also <sup>the</sup> permission to cross-examine the petitioner as well as his witnesses, if so desired by the management.

5. Subject to the said observation the writ petition is dismissed.

sgs/



Sd/-  
JUDGE